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IN THE

Supreme Court of the United States

OCTOBER TERM, 1965

No. [redacted] 212

METROMEDIA, INC.,

Appellant,

—against—

AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS,

Appellee,

and

UNITED STATES OF AMERICA.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

JURISDICTIONAL STATEMENT

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June 3, 1965

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JURISDICTIONAL STATEMENT

Appellant appeals from the order and judgment of the United States District Court for the Southern District of New York entered on March 25, 1964 denying its motion to punish appellee ("ASCAP") for civil contempt for refusing to comply with the Amended Judgment entered against ASCAP on March 14, 1950 in *United States of America* v. *American Society of Composers, Authors and Publishers,* Civ. No. 13-95, or alternatively, to direct the United States, as plaintiff in that action, to so move the Court.

Opinion Below

The District Court did not render an opinion. Its judgment was endorsed on the back of appellant's motion papers:

> "Motion denied. See record and transcript of proceedings; so ordered."

Jurisdiction

On February 26, 1941, the United States filed a civil antitrust action in the Southern District of New York against ASCAP. On March 4, 1941, a final consent judgment was entered in that action. On March 14, 1950 said judgment was amended. ("Amended Judgment")

The Amended Judgment included certain affirmative and negative injunctions regulating the conduct of ASCAP's business (licensing the performance of musical compositions) and established procedures for fixing reasonable fees to be paid by licensees of ASCAP music.

Appellant applied to the District Court to punish ASCAP for contempt for its refusal to comply with the Amended Judgment, or alternatively, to direct the Government so to do. On March 25, 1964, the District Court denied appellant's motion by an order filed that day. On May 19, 1964 appellant filed its notice of appeal to this Court.

The jurisdiction of this Court is invoked under §2 of the Expediting Act, 15 U. S. C. §29, and is supported by *Terminal R.R. Ass'n* v. *United States,* 266 U. S. 17 (1924).

Uncertain whether the controversy is inside or outside "the mainstream of the litigation in which the Government is directly concerned" [*Shenandoah Valley Broadcasting Inc.* v. *ASCAP*, 375 U. S. 39 (1963)], petitioner has also filed a petition for a writ of certiorari to the United States Court of Appeals for the Second Circuit concurrently with this Jurisdictional Statement. (28 U. S. C. §1254(1); *Shenandoah, supra.*)

Questions Presented, Statutes Involved, Statement, The Questions Are Substantial

To avoid duplication, appellant requests that the Court consider in support of this appeal and as part of this Jurisdictional Statement, appellant's petition for a writ of certiorari filed concurrently herewith which appellant incorporates herein by reference.

Conclusion

The order and judgment of the District Court that appellant has no standing to enforce the Amended Judgment and that ASCAP did not violate the Amended Judgment are erroneous and should be reversed.

Respectfully submitted,

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